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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Appellant, v. ERNEST LEE WOODARD, Defendant and Respondent.	A153097 (San Mateo County Super. Ct. No. 17SF005470A)

After police conducted a warrantless probation search of Ernest Lee Woodard's residence, Woodard was arrested and charged with possession for sale of cocaine base and heroin. However, Woodard was not on probation. He had not waived his personal rights to search and seizure. But having a cousin who was on probation and who had previously resided at Woodard's residence, placed Woodard in the unfortunate position of police records listing his address as his cousin's residence.

The People appeal dismissal (Pen. Code, § 1385) following the trial court granting Woodard's motion to suppress evidence (Pen. Code, § 1538.5). We review whether the Fourth Amendment was violated and whether the good-faith exception precludes suppression. We reverse.

I. BACKGROUND

A. Search and Seizure

On May 2, 2017, while assisting in a probation search involving Raymond Scott at an address in East Palo Alto, Menlo Park Police Sergeant Ed Soares walked to the rear of

the residence and saw Woodard possibly place an unknown item in a woodpile. Sergeant Soares ordered Woodard to the ground and handcuffed him. Sergeant Soares searched the woodpile and discovered a clear, plastic bag, which appeared to contain cocaine base and suspected heroin. Woodard also possessed a large sum of money.

B. Motion to Suppress Hearing

On May 1, 2017, East Palo Alto Police Officer Daniel Cancilla responded to a Welfare and Institutions Code section 5150 call regarding a mentally disabled person at a house on Menalto Avenue (Menalto residence). There, Officer Cancilla saw Raymond Scott standing outside the front door of the house. Cancilla saw Scott go inside the residence.

Officer Cancilla was familiar with Scott and had previously arrested him between two and four times at the Menalto residence. In the past, Cancilla had Scott's car towed from the Menalto residence. Cancilla ran a records check on Scott and determined from the computer-aided dispatch (CAD) report that Scott was on probation with his listed address as the Menalto residence.

On May 2, 2017, Officer Cancilla returned to the Menalto residence to conduct a probation search on Scott. Prior to the search, Officer Cancilla ran another records check and received the same information about Scott's probation status and listed address. Cancilla explained that he received the CAD reports from his dispatchers. The CAD reports had been reliable in the past, and he routinely relied on them. Cancilla did not know how the dispatchers generated the CAD reports or the source of the dispatchers' information. He stated, "I just ask them, and they give it me."

When Officer Cancilla entered the residence, Scott was not there. Cancilla had not contacted Scott's probation officer to see if Scott actually lived at the Menalto residence. He explained that he had conducted many probation searches without contacting the probation officer.

Scott testified that Woodard is his cousin, but they did not get together much because they are in different age brackets. Scott testified that he did not live at the Menalto residence and that he had been living in Redwood City for at least three years.

He provided two pieces of mail addressed to his residence in Redwood City. He also said that he had provided his Redwood City address to the probation department for the past three years and provided the same address for his prior grants of probation.

Scott did not recall having any contact with East Palo Alto Police in May 2017. Scott remembered coming to the Menalto residence to help his aunt with his autistic cousin (not Woodard), but he could not remember the exact date; Scott called 911 to get help. Scott was not living at the Menalto residence at the time he went to help his aunt. Scott was not at the Menalto residence at the time of Woodard's arrest. Other than the day of the 911 call, Scott did not recall having spent much time at the Menalto residence.

At the prosecution's request, the court took judicial notice of the file in case No. 16-SF-013851, which indicated that on the day in question (May 2, 2017), Scott was on probation with the Menalto residence as his listed address. The court also judicially noticed a domestic violence protective order filed in that case on April 13, 2017, indicating a disposition releasing Scott to Redwood City.

The court continued the hearing to allow both sides to present further evidence and argument. The People produced a search-and-seizure order from the file in case No. 16-SM-007932-A, which had been the file referenced in the CAD report; the order was dated September 14, 2016, and listed Scott's residence as the Menalto address. The district attorney also advised the court that he had been informed by Scott's probation officer that he had an address other than the Menalto address. However, this information was provided to probation after the May 2017 search and seizure.

C. The Trial Court's Ruling

The court accepted Scott's testimony that he was living in Redwood City at the time of Woodard's arrest. The court implicitly found Scott's testimony that he had updated his address to be incredible: "[W]hat you have here is a search of this defendant going on that . . . is done in the wrong place, and it's . . . not through the fault of this defendant. It's done in the wrong place because, arguably, Mr. Scott did not update his information with probation. [¶] So the CAD report ends up being wrong here, arguably,

because Mr. Scott's not updating his information as he was required to do under his probation terms. That's the proximate cause of why there's an error in the system."

The court further explained that it did not have any knowledge "about the computer technology of the system as to what the tools would be to cross-check these things. There's no evidence before me on that whatsoever." The court found that the prosecution had not met its burden of proof, distinguishing the clear proof of a nexus between the authorities' right to conduct a probation search and a particular location, set forth in *People v. Downey* (2011) 198 Cal.App.4th 652 (*Downey*). Relying on one of the dissents in *Herring v. United States* (2009) 555 U.S. 135, 157–159 (dis. opn. of Breyer, J.) (*Herring*), the court determined that exclusion of the evidence was appropriate due to the potential for deterrence based, in part, on the fact that the CAD printout was a police document.

Given the technology available to law enforcement, the court believed the incorrect address should not have remained in the system for three years. In concluding, the court stressed: "[T]he main thing about this motion that's at work here is that . . . the People and Mr. Woodard are both the victim[s] of Mr. Scott's failure to update his information."

II. DISCUSSION

A. Applicable Law and Standard of Review

The Fourth Amendment to the United States Constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." (U.S. Const., 4th Amend.) Because the " 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed,' " "[i]t is a 'basic principle of Fourth Amendment law' that searches and seizures inside a home without a warrant are presumptively unreasonable." (*Payton v. New York* (1980) 445 U.S. 573, 585–586, fn. omitted.)

"When a defendant raises a challenge to the legality of a warrantless search or seizure, the People are obligated to produce proof sufficient to show, by a preponderance of the evidence, that the search fell within one of the recognized exceptions to the warrant requirement. [Citations.] A probation search is one of those exceptions." (*People v. Romeo* (2015) 240 Cal.App.4th 931, 939.)

"Where, however, the search is later found to be invalid, . . . a Fourth Amendment violation is shown and the question becomes whether such constitutional violation is appropriately remedied by application of the judicially created exclusionary rule which prohibits the admission at trial of the evidence obtained during the unlawful search." (*People v. Downing* (1995) 33 Cal.App.4th 1641, 1650–1651 (*Downing*), citing *United States v. Leon* (1984) 468 U.S. 897, 906 (*Leon*).) The United States Supreme Court has made clear that exclusion is not a necessary consequence of a Fourth Amendment violation; rather, it "applies only where it ' "result[s] in appreciable deterrence." ' " (*Herring, supra,* 555 U.S. at p. 141.) "Indeed, exclusion 'has always been our last resort, not our first impulse,' [citation] and our precedents establish important principles that constrain application of the exclusionary rule." (*Id.* at p. 140, quoting *Hudson v. Michigan* (2006) 547 U.S. 586, 591.)

"To trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system. As laid out in our cases, the exclusionary rule serves to deter deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systemic negligence." (*Herring, supra,* 555 U.S. at p. 144.) The exclusionary rule may apply to deter misconduct by either a parole officer or a data-entry clerk, as they are adjuncts of law enforcement. (See *People v. Willis* (2002) 28 Cal.4th 22, 38, 45 (*Willis*); see also *People v. Ferguson* (2003) 109 Cal.App.4th 367, 374.) However, "when police mistakes are the result of negligence . . . rather than systemic error or reckless disregard of constitutional requirements, any marginal deterrence does not 'pay its way.' [Citation.] In such a case, the criminal should not 'go free because the constable has blundered.' [Citation.]" (*Herring,* at pp. 147–148.)

"Where . . . the prosecution invokes the good faith exception, the government has 'the burden . . . to prove that exclusion of the evidence is not necessary because of [that] exception.' [Citation.] Thus, 'the government has the burden of establishing "objectively reasonable" reliance' . . . [Citation.] Establishing that the source of the error acted objectively reasonably is part of that burden." (*Willis, supra*, 28 Cal.4th at pp. 36–37.)

"[T]he rule that whether a search is reasonable must be determined based upon the circumstances known to the officer when the search is conducted and is consistent with the primary purpose of the exclusionary rule—to deter police misconduct." (*People v. Sanders* (2003) 31 Cal.4th 318, 332.) " '[A]lmost without exception in evaluating alleged violations of the Fourth Amendment the [United States Supreme] Court has first undertaken an objective assessment of an officer's actions in light of the facts and circumstances then known to him.' " (*Id.* at p. 334.) "It is apparent that in order to satisfy the 'reasonableness' requirement of the Fourth Amendment, what is generally demanded of the many factual determinations that must regularly be made by agents of the government—whether the magistrate issuing a warrant, the police officer executing a warrant, or the police officer conducting a search or seizure under one of the exceptions to the warrant requirement—is not that they always be correct, but that they always be reasonable. . . . [¶] 'Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability.' " (*Illinois v. Rodriguez* (1990) 497 U.S. 177, 185–186; see *People v. Pou* (2017) 11 Cal.App.5th 143, 153 ["We do not with a 'hindsight determination' upend the officers' objectively reasonable conclusion that an exigency existed at the location simply because we subsequently learn of contrary facts unknown to the officers at the time they made their decision"]; *Willis, supra,* 28 Cal.4th at p. 29, fn. 3 ["the term 'good faith exception' may be somewhat of a misnomer, because the exception focuses on the objective reasonableness of an officer's conduct"].)

" 'In reviewing a suppression ruling, "we defer to the superior court's express and implied factual findings if they are supported by substantial evidence, [but] we exercise our independent judgment in determining the legality of a search on the facts so found." ' [Citation.] [¶] Thus, while we ultimately exercise our independent judgment to determine the constitutional propriety of a search or seizure, we do so within the context of historical facts determined by the trial court. 'As the finder of fact . . . the superior court is vested with the power to judge the credibility of the witnesses, resolve any conflicts in the testimony, weigh the evidence and draw factual inferences in deciding whether a search is constitutionally unreasonable.' [Citation.] We review its factual findings ' " ' "under the deferential substantial-evidence standard." ' " ' [Citation.] Accordingly, '[w]e view the evidence in a light most favorable to the [trial court's] order[,] . . .' and '[a]ny conflicts in the evidence are resolved in favor of the superior court ruling' [citation]. Moreover, the reviewing court 'must accept the trial court's resolution of disputed facts and its assessment of credibility.' " (*People v. Tully* (2012) 54 Cal.4th 952, 979.)

B. The Trial Court Erred in Granting the Motion to Suppress

The search conducted here was presumptively unreasonable because it was warrantless. (*People v. Williams* (1999) 20 Cal.4th 119, 127.) The reason police nevertheless conducted the search was their reliance on a law-enforcement database indicating that Scott was on probation, subject to search without a warrant, and lived at the Menalto residence. Because, however, that justification was erroneous, the search violated the Fourth Amendment. But as discussed, an invalid search does not mean that evidence derived from it must be excluded at trial. The relevant inquiry is whether the investigating officer acted in objectively reasonable good faith. (*Herring, supra,* 555 U.S. at pp. 140, 142.)

The " 'good-faith inquiry is confined to the objectively ascertainable question whether a reasonably well trained officer would have known that the search was illegal' in light of 'all of the circumstances.' " (*Herring, supra,* 555 U.S. at p. 145, quoting *Leon,*

supra, 468 U.S. at p. 922.) "The circumstances frequently include a particular officer's knowledge and experience . . . ." (*Herring,* at p. 145.)

Here, Officer Cancilla was familiar with probationer Scott and had previously arrested him between two and four times at the Menalto residence. In the past, Officer Cancilla had Scott's car towed from the Menalto address. And, just one day before the search, Officer Cancilla saw Scott outside the Menalto residence and observed him go inside the house. Officer Cancilla then ran a records check on Scott and determined from the CAD report that Scott was on probation with his listed address as the Menalto residence.

The next day, Officer Cancilla went back to the Menalto residence to conduct a probation search on Scott. Prior to the search, he ran another records check, which revealed the same information about Scott's probation status and listed address.

We simply cannot say on this record that an objective and reasonable officer would have known or should have known that the CAD listing of Scott's last known address was in error. Officer Cancilla testified that he routinely relied on the CAD reports provided by his dispatchers and the information provided therein had been reliable. That Officer Cancilla could have taken additional steps to verify Scott's residence does not undermine our conclusion that he acted reasonably based on the information he already had when he acted. (See *Downey, supra,* 198 Cal.App.4th at p. 660.) Here, it is likely that if Officer Cancilla had contacted the probation department to check on Scott's address, he would have been given the same address because, as the trial court found, Scott had failed to update his address.[1]

Nevertheless, the trial court's implicit finding appears to be that it was not objectively reasonable for Officer Cancilla to rely on faulty information that was three

[1] Contrary to Woodard's suggestion, this finding by the court is entitled to deference as it is supported by substantial evidence; the People submitted documentation that probation documents continued to list the Menalto residence as Scott's address as of September 2016, despite Scott's claim that he had lived in Redwood City for three years and updated his address with probation in April 2017.

years old. In reaching this conclusion, the trial court distinguished *Downey* on the ground that it did not have the "clarity" of information possessed by the officers in that case, and that the People had not met their burden of proving an "adequate nexus" between the warrantless probation search and this particular location. We disagree.

In *Downey,* Riverside Police Detective Townsend assigned to a gang unit tried to locate a probationer named George Roussell. (*Downey, supra,* 198 Cal.App.4th at p. 655.) Detective Townsend testified that trying to locate a gang member who is on probation can sometimes be very difficult because probationers and parolees often give false addresses to hide from law enforcement. (*Ibid.*) Townsend looked in several different databases and called various agencies. (*Ibid.*) He discovered four different addresses for Roussell. (*Ibid.*) Townsend discovered a utility bill in Rousell's name for a location on Magnolia Avenue in Riverside. (*Ibid.*) There was also a telephone number in Roussell's name listing that same address. (*Ibid.*) Townsend testified that in his experience, utility bills often provided the most reliable information because probationers and parolees often do not know the police have access to such information. (*Ibid.*)

Detective Townsend and other officers went to the Magnolia Avenue address and knocked several times. (*Downey, supra,* 198 Cal.App.4th at p. 655.) No one answered. (*Ibid.*) The officers forced entry and found a man named Tyrone Butler. (*Ibid.*) Butler was immediately handcuffed. (*Id.* at pp. 655–656.) While conducting a protective sweep, two females and defendant Downey were apprehended. (*Id.* at p. 656.) Incriminating evidence in the kitchen was seized and used to prosecute both Butler and Downey. (*Ibid.*) Downey told the officers Roussell did not live there and had moved out over three months earlier. (*Ibid.*)

Downey moved to suppress. (*Downey, supra,* 198 Cal.App.4th at p. 656.) At the hearing, Detective Townsend admitted he had not looked at Roussell's criminal case. (*Ibid.*) Testimony was also presented that showed the manager of the apartment told Townsend that Downey and his girlfriend rented the apartment, not Roussell. (*Ibid.*) The trial court denied Downey's motion to suppress, finding the officers had a "good faith" belief Roussell was living at the Magnolia Avenue residence. (*Id.* at pp. 656–657.)

The appellate court affirmed, finding that "[b]ased on all of the information known to the officers, it was objectively reasonable for them to conclude Roussell lived in defendant's apartment and was present at the time." (*Downey, supra,* 198 Cal.App.4th at p. 659.) In so holding, the court rejected the notion that the quantum of proof was insufficient to establish a good-faith finding: "That the officers could have taken additional steps to verify Roussell's residence does not undermine our conclusion that that the officers acted reasonably based on the information they already had when they acted." (*Id.* at p. 660.)

Contrary to the trial court's ruling, *Downey* actually supports exclusion of the evidence in this case. Here, Officer Cancilla had a single address for Scott, unlike the four possible addresses for the probationer in *Downey.* Also, the officers in *Downey* were given information that the probationer did not reside at the apartment and that the defendant and his girlfriend lived there. In contrast, Officer Cancilla had prior contacts with Scott at the Menalto address and saw Scott at that residence the very day before the search. Also, Officer Cancilla had no conflicting information at the time he conducted the probation search. All of the information reflected that Scott lived at the Menalto residence. There was no evidence that, at the time of the search, anyone had informed Officer Cancilla that Scott lived in Redwood City; rather, Scott presented that information at the suppression hearing. All of this, in our opinion, provides an even closer nexus between the search and the location than in *Downey*.

Relying on *Willis, supra*, 28 Cal.4th 22, Woodard maintains that the exclusionary rule was properly applied. In *Willis,* a parole record mistakenly showed the defendant as on parole, when he had actually been discharged from parole months earlier. (*Willis, supra,* 28 Cal.4th at pp. 26–28.) Despite the fact the defendant denied being on parole and presented documentation to the officers that he had been discharged from parole, a parole officer and a police officer searched the defendant's motel room. (*Id.* at p. 27.) The search uncovered narcotics and narcotics paraphernalia. (*Ibid.*) The source of the error in the defendant's parole record was unclear, but it was either the fault of the parole officer, who directed the search, or a parole system data-entry clerk, who was responsible

for maintaining accurate parole records. (*Id.* at p. 35.) The defendant's suppression motion was denied. (*Id.* at p. 28.)

The California Supreme Court held the good-faith exception to the exclusionary rule was inapplicable. (*Id*. at p. 25) The court found that the police officer's and the probation officer's reliance on the erroneous parole record was not objectively reasonable. Neither of them made any attempt to verify the defendant's parole status by other means prior to conducting the search. (*Id.* at p. 43.) Furthermore, regardless of the source of the error, the court found it was attributable to the entire "law enforcement team," which included the parole officer and the data-entry clerk, as adjuncts to law enforcement. (*Id.* at pp. 44.) Thus, the fact that the defendant had been discharged from parole prior to the search was within the collective knowledge of the law-enforcement team, which precluded the application of the good-faith exception. (*Id.* at p. 40.) The *Willis* court concluded that suppression of the evidence in that case was consistent with the deterrence goal of the exclusionary rule by providing an incentive to law-enforcement officials to maintain accurate parole records. (*Id.* at pp. 48–49.)

Woodard's reliance on *Willis* is misplaced. First, *Willis* is distinguishable on its facts, both because the database mistake was the result of parole-department error rather than a private individual's conduct and because Willis produced parole-discharge papers showing he was no longer subject to search, which his parole officer ignored. There was no similarly credible evidence that the probation-department records were mistaken about Scott's address. Second, since *Willis,* the United States Supreme Court has refined the parameters of the good-faith exception. If, before *Herring*, *supra,* 555 U.S. 135, the good-faith exception did not apply to negligent conduct by law-enforcement officials, such as conducting a search when the officials in question *should have known* a search was unconstitutional (*Willis, supra*, 28 Cal.4th at p. 48), after *Herring*, the good-faith exception unquestionably applies "when police mistakes are the result of negligence . . . rather than systemic error or reckless disregard of constitutional requirements." (*Herring, supra,* at p. 147.) In other words, if the error made by the officer was merely negligent, the extreme sanction of suppression is not appropriate.

However, the "exclusionary rule serves to deter deliberate, reckless, or grossly negligent [law-enforcement] conduct, or in some circumstances recurring or systemic negligence." (*Id.* at p. 144.)

In *Herring*, officers in one county arrested the defendant based on a warrant listed in a neighboring county's computer database. The defendant was searched incident to arrest, and the officers found drugs and a gun. (*Herring, supra*, 555 U.S. at p. 137.) It was subsequently discovered that the warrant had been recalled months earlier, although that information was never entered into the county's database. (*Id.* at pp. 137–138.) The defendant was indicted on federal gun and drug possession charges and moved to suppress the evidence, arguing his arrest had been illegal. (*Id.* at p. 138.) His suppression motion was denied. (*Ibid.*)

Acknowledging the errors in the *Herring* case were due to police negligence, the United States Supreme Court upheld the denial of the suppression motion. (*Herring, supra*, 555 U.S. at p. 147.) The Supreme Court assessed the culpability of the police and the efficacy of excluding the evidence in deterring future police misconduct, concluding: "To trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system. As laid out in our cases, the exclusionary rule serves to deter deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systemic negligence." (*Id.* at p. 144.) However, where, as here, "police mistakes are the result of negligence . . . rather than systemic error or reckless disregard of constitutional requirements, any marginal deterrence does not 'pay its way.' [Citation.] In such a case, the criminal should not 'go free because the constable has blundered.' " (*Id.* at pp. 147–148.)

Here, the trial court, relying on one of the dissents in *Herring* (dis. opn. of Breyer, J.), concluded that since the CAD report was a police record, it was more susceptible to deterrence. The *Herring* majority, however, rejected Justice Breyer's suggestion that *Arizona v. Evans* (1995) 514 U.S. 1, a case cited in his dissenting opinion (555 U.S. at pp. 158 (dis. opn. of Breyer, J.)), was entirely " ' premised on a distinction

between judicial errors and police errors.' " (*Herring, supra*, 555 U.S. at pp. 142–143, fn. 3.) The majority further noted that the distinction that Justice Breyer regarded as "determinative" was deemed an " 'artificial' " distinction by the dissenting opinion in *Evans* at page 29. (*Herring, supra,* at p. 143, fn. 3.(dis. opn. of Ginsberg, J.).) Rather, the *Herring* majority explained that "[t]he extent to which the exclusionary rule is justified by these deterrence principles varies with the culpability of the law enforcement conduct." (*Id.* at p. 143.) " '[A]n assessment of the flagrancy of the police misconduct constitutes an important step in the calculus' of applying the exclusionary rule" (*id.* at p. 143) and necessitated consideration of "the actions of all the police officers involved" (*id.* at p. 140). Because the arresting "officers did nothing improper" and the error in failing to update the database to reflect recall of the warrant was only negligent, but not reckless or deliberate, the police error was not enough "by itself to require 'the extreme sanction of exclusion.' " (*Ibid*.) *Herring* concluded: "[W]hen police mistakes are the result of negligence such as that described here, rather than systemic error or reckless disregard of constitutional requirements, any marginal deterrence does not 'pay its way.' " (*Id.* at pp. 147–148.) The calculus might differ, *Herring* reasoned, if police "have been shown to be reckless in maintaining a warrant system, or to have knowingly made false entries to lay the groundwork for future arrests." (*Id*. at p. 146.) Further, "where systemic errors were demonstrated, it might be reckless for officers to rely on an unreliable warrant system." (*Ibid*.) The conduct at issue in *Herring* "was not so objectively culpable as to require exclusion." (*Ibid.*)

Here, even if the probation department failed to update the court records, and assuming for the sake of argument that the probation department is an adjunct of law enforcement, any error here was the "result of isolated negligence attenuated from the arrest." (*Herring, supra*, 555 U.S. at p. 137.) Nothing in the record suggests that law enforcement acted with a "deliberate, reckless, or grossly negligent" disregard for Woodard's Fourth Amendment rights. (*Id.* at p. 144.)

While we agree that it is the prosecution's burden to establish the good-faith exception applies—i.e. that the police mistake was the result of negligence rather than

systemic error or reckless disregard of constitutional requirements—*Herring* does not create a presumption of systemic error that the People must *disprove*. In *Herring*, the testimony of the officer and dispatchers that they personally had not experienced any problems with the system was sufficient to demonstrate an absence of widespread errors. (*Herring, supra,* 555 U.S. at pp. 146–147.) Here, Officer Cancilla testified that he regularly relied on CAD reports and that he had no reason to question the information provided. And, he customarily conducted probation searches without first contacting the probation officer. Although additional information certainly would have been beneficial, the issue is not whether Officer Cancilla sought out all available information or undertook the best possible course of action, but whether his decision to conduct a probation search at the Menalto residence was objectively reasonable in light of the knowledge he had. (*People v. Douglas* (2015) 240 Cal.App.4th 855, 871–872 [officer had objectively reasonable belief that defendant was on post release community supervision (PRCS) at the time of search; failure to run computer check to verify defendant's current PRCS status did not render officer's action objectively unreasonable].) Here, as in *Herring*, Officer Cancilla's conduct was not so objectively culpable as to require exclusion. (*Herring, supra,* 555 U.S. at p. 146.)

In light of all of the circumstances, substantial evidence supports an implied finding that Officer Cancilla acted in objectively reasonable reliance (*Willis, supra,* 28 Cal.4th at pp. 36–37) that Scott resided at the Menalto address. Further, the evidence demonstrated an isolated error due either to Scott's failure to update his address with probation, or to probation's failure to update Scott's address. Under *Herring*, the "marginal deterrence" of applying the exclusionary rule to this situation "does not 'pay its way.' " (*Herring, supra,* 555 U.S. at pp. 147–148.) Accordingly, we conclude the court erred in granting the motion to suppress.

III. DISPOSITION

The order dismissing the criminal information against Woodard is reversed. The superior court is directed to set aside the order granting Woodard's motion to suppress and to enter a new order denying the motion.

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REARDON, J.*

We concur:

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TUCHER, Acting P. J.

_____
LEE, J.**

* Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

** Judge of the Superior Court of San Mateo County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.